

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

DAMILARE SONOIKI,

Plaintiff,

v.

HARVARD UNIVERSITY, HARVARD  
UNIVERSITY BOARD OF OVERSEERS,  
and THE PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE,

Defendants.

Civil Action No. 1:19-cv-12172

**ASSENTED-TO MOTION FOR LEAVE TO FILE DEFENDANTS' MEMORANDUM  
OF LAW IN SUPPORT OF THEIR MOTION TO EXCLUDE TESTIMONY OF  
PLAINTIFF'S EXPERTS AND ACCOMPANYING EXHIBITS UNDER SEAL**

Pursuant to Local Rule 7.2, Defendants Harvard University, Harvard University Board of Overseers, and the President and Fellows of Harvard College (together “Harvard”)<sup>1</sup> hereby move for leave to file under seal their Memorandum of Law in Support of Their Motion to Exclude Testimony of Plaintiff’s Experts (“Memorandum of Law”) and certain accompanying exhibits, as well as to redact the names and personal identifiable information of non-parties named in those sealed documents. As explained below, the documents Harvard seeks to file under seal also contain confidential and private information about Plaintiff and non-parties, and/or are marked and/or presumed “Confidential” pursuant to the Protective Order in this action. The relevant exhibits are attached as Exhibits A–D, G–J to the Declaration of David Cohen (the “Exhibits”).

On April 19, 2023, pursuant to Local Rule 7.1, Harvard intends to file the Memorandum of Law and accompanying exhibits through ECF. Harvard further moves to file a redacted Memorandum of Law, and to submit to the Court an unredacted Memorandum of Law under seal. Counsel for Harvard has conferred with counsel for Plaintiff, who has indicated that Plaintiff assents to the relief requested. In support hereof, Harvard states as follows:

1. The Court entered an agreed-upon Protective Order between Plaintiff and Defendants on October 26, 2022. Dkt No. 70.
2. Pursuant to the Protective Order, the parties were permitted to, and did, designate deposition testimony, deposition exhibits, and all other Discovery Material— defined as “any information in any form (including without limitation, a document, electronically stored information, witness testimony, or response to written discovery) that is produced or generated in

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<sup>1</sup> Plaintiff’s Complaint incorrectly identifies the Harvard entities as “Harvard University, Harvard University Board of Overseers, and the President and Fellows of Harvard College.” The President and Fellows of Harvard College is the legal entity that comprises the various named defendants and is the only proper party to this litigation.

disclosures or responses to discovery in this matter, or appended to pleadings in this matter (whether or not produced)—as “Confidential.” *See id.* at ¶¶ 2, 11.

3. The Protective Order further provides that Confidential Information cannot be filed in the public record in this action without an agreement between the parties to file the material with agreed-upon redactions or to waive the designation as “Confidential Information.” *See id.* at ¶ 20.

4. Harvard’s Memorandum of Law includes citations to, and quotes from, Confidential Information. The Exhibits consist of deposition testimony that has been designated as “Confidential,” documents and information protected against disclosure by the Family Educational Rights and Privacy Act (“FERPA”), and other personal and private information about Plaintiff and non-parties.

5. At the Motion to Dismiss stage of these proceedings, the parties agreed to a redaction and sealing procedure wherein Harvard filed certain confidential and sensitive documents under seal, along with a redacted Memorandum of Law in Support of its Motion to Dismiss. Dkt No. 21. The Court granted the motion on that same day. Dkt. No. 22 (Casper, J.).

6. On February 1, 2023, the parties agreed to apply the same procedure for Harvard’s Opposition to Plaintiff’s January 18, 2023 Motion to Compel. Dkt. No. 112. The Court granted Harvard’s sealing motion the next day. Dkt. No. 115.

7. Harvard seeks to follow the same procedure here, and Plaintiff has assented to this procedure.

8. With the Court’s permission, Harvard will submit its Memorandum of Law through ECF with limited redactions over portions of the Exhibits that quote or cite material and testimony

previously designed as “Confidential” in accordance with the Protective Order, and submit to the Court an unredacted version of the Memorandum of Law under seal.

9. With the Court’s permission, Harvard will also file the Exhibits under seal. Harvard notes that certain Exhibits were produced in this litigation with redactions and pseudonyms to protect FERPA information contained within them.

10. The parties have conferred and agree that the procedure described herein is consistent with the parties’ Protective Order, and is necessary and appropriate in order to protect the personal and private information of Plaintiff and third parties.

WHEREFORE, Harvard respectfully requests that the Court grant this Motion and allow the designated materials to be filed redacted and/or under seal, as described herein.

Dated: April 19, 2023

Respectfully submitted,

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*Attorneys for Defendants  
Harvard University, Harvard Board of  
Overseers, and President and Fellows of  
Harvard College*

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

The undersigned counsel hereby certifies that Defendants' counsel has conferred in good faith with counsel for Plaintiff regarding the foregoing Motion. Plaintiff, through counsel, has indicated that he assents to the relief requested.

/s/ Anton Metlitsky

Anton Metlitsky

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 19, 2023.

/s/ Anton Metlitsky  
Anton Metlitsky